

EFFECTIVE DATE OF 1993 AMENDMENT

Section 111(a) of Pub. L. 103-121 provided in part that the amendment made by that section is effective 30 days after Oct. 27, 1993.

Section 111(b) of Pub. L. 103-121 provided in part that the amendment made by that section is effective 30 days after Oct. 27, 1993.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 111 of Pub. L. 102-140 provided that the amendment made by that section is effective 60 days after Oct. 28, 1991.

EFFECTIVE DATE

Section effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

§ 589b. Bankruptcy data

(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

(3) appropriate privacy concerns and safeguards.

(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

(1) information about the length of time the case was pending;

(2) assets abandoned;

(3) assets exempted;

(4) receipts and disbursements of the estate;

(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

(6) claims asserted;

(7) claims allowed; and

(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

(2) length of time the case has been pending;

(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.

(Added Pub. L. 109-8, title VI, §602(a), Apr. 20, 2005, 119 Stat. 120.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (a), see Effective Date note set out below.

EFFECTIVE DATE

Section effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as an Effective Date of 2005 Amendment note under section 101 of Title 11.

CHAPTER 40—INDEPENDENT COUNSEL

Sec.

591. Applicability of provisions of this chapter.

592. Preliminary investigation and application for appointment of an independent counsel.

593. Duties of the division of the court.

594. Authority and duties of an independent counsel.

595. Congressional oversight.

596. Removal of an independent counsel; termination of office.

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| 597. | Relationship with Department of Justice. |
| 598. | Severability. |
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AMENDMENTS

1987—Pub. L. 100–191, §2, Dec. 15, 1987, 101 Stat. 1293, amended chapter 40 heading and analysis generally, substituting items 591 to 599 for former items 591 to 598.

1986—Pub. L. 99–554, title I, §144(g)(1), Oct. 27, 1986, 100 Stat. 3097, substituted “40” for “39” as chapter designation.

1983—Pub. L. 97–409, §2(a)(1)(A), Jan. 3, 1983, 96 Stat. 2039, substituted “independent counsel” for “special prosecutor” in chapter heading and in items 592, 594, and 596.

§ 591. Applicability of provisions of this chapter

(a) **PRELIMINARY INVESTIGATION WITH RESPECT TO CERTAIN COVERED PERSONS.**—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(b) **PERSONS TO WHOM SUBSECTION (a) APPLIES.**—The persons referred to in subsection (a) are—

- (1) the President and Vice President;
- (2) any individual serving in a position listed in section 5312 of title 5;
- (3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;
- (4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;
- (5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;
- (6) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level, during the incumbency of the President; and
- (7) any individual who held an office or position described in paragraph (1), (2), (3), (4), or (5) for 1 year after leaving the office or position.

(c) **PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS.**—

(1) **IN GENERAL.**—When the Attorney General determines that an investigation or prosecution of a person by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether that person may have violated Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(2) **MEMBERS OF CONGRESS.**—When the Attorney General determines that it would be in the

public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(d) **EXAMINATION OF INFORMATION TO DETERMINE NEED FOR PRELIMINARY INVESTIGATION.**—

(1) **FACTORS TO BE CONSIDERED.**—In determining under subsection (a) or (c) (or section 592(c)(2)) whether grounds to investigate exist, the Attorney General shall consider only—

- (A) the specificity of the information received; and
- (B) the credibility of the source of the information.

(2) **TIME PERIOD FOR MAKING DETERMINATION.**—The Attorney General shall determine whether grounds to investigate exist not later than 30 days after the information is first received. If within that 30-day period the Attorney General determines that the information is not specific or is not from a credible source, then the Attorney General shall close the matter. If within that 30-day period the Attorney General determines that the information is specific and from a credible source, the Attorney General shall, upon making that determination, commence a preliminary investigation with respect to that information. If the Attorney General is unable to determine, within that 30-day period, whether the information is specific and from a credible source, the Attorney General shall, at the end of that 30-day period, commence a preliminary investigation with respect to that information.

(e) **RECUSAL OF ATTORNEY GENERAL.**—

(1) **WHEN RECUSAL IS REQUIRED.**—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

(2) **REQUIREMENTS FOR RECUSAL DETERMINATION.**—Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to such information.

(Added Pub. L. 95–521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1867; amended Pub. L. 97–409, §§3,

4(a), Jan. 3, 1983, 96 Stat. 2039, 2040; Pub. L. 98-473, title II, § 228(b), Oct. 12, 1984, 98 Stat. 2030; Pub. L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1293; Pub. L. 103-270, §§ 3(j), (k), 4, June 30, 1994, 108 Stat. 735, 736.)

AMENDMENTS

1994—Subsec. (b)(6) to (8). Pub. L. 103-270, § 4(b), redesignated par. (8) as (6) and substituted “; and” for the period at end, added par. (7), and struck out former pars. (6) and (7) which read as follows:

“(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President under whom such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position;

“(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position; and”.

Subsec. (c). Pub. L. 103-270, § 4(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “PRELIMINARY INVESTIGATION WITH RESPECT TO PERSONS NOT LISTED IN SUBSECTION (b).—The Attorney General may conduct a preliminary investigation in accordance with section 592 if—

“(1) the Attorney General receives information sufficient to constitute grounds to investigate whether any person other than a person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction; and

“(2) the Attorney General determines that an investigation or prosecution of the person, with respect to the information received, by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest.”

Subsec. (d)(2). Pub. L. 103-270, § 3(j), substituted “30” for “15” wherever appearing.

Subsec. (e). Pub. L. 103-270, § 3(k), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “(e) RECUSAL OF ATTORNEY GENERAL.—

“(1) WHEN RECUSAL IS REQUIRED.—If information received under this chapter involves the Attorney General or a person with whom the Attorney General has a current or recent personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior officer in the Department of Justice whom that information does not involve and who does not have a current or recent personal or financial relationship with such person to perform the duties assigned under this chapter to the Attorney General with respect to that information.

“(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—The Attorney General shall, before personally making any other determination under this chapter with respect to information received under this chapter, determine under paragraph (1) whether to recuse himself or herself with respect to that information. A determination to recuse shall be in writing, shall identify the facts considered by the Attorney General, and shall set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to the information involved.”

1987—Pub. L. 100-191 amended section generally, substituting subsections. (a) to (e) relating to applicability of chapter for former subsections. (a) to (c) relating to similar subject.

1984—Subsec. (a). Pub. L. 98-473 substituted “Class B or C misdemeanor or an infraction” for “petty offense”.

1983—Subsec. (a). Pub. L. 97-409, § 4(a)(1), substituted “information sufficient to constitute grounds to investigate” for “specific information” after “the Attorney General receives”.

Subsec. (b)(3). Pub. L. 97-409, § 3, substituted “who is compensated at or above a rate equivalent to level II” for “and compensated at a rate not less than the annual rate of basic pay provided for level IV”.

Subsec. (b)(4), (5). Pub. L. 97-409, § 3, redesignated as par. (5) “the Director of Central Intelligence” and all that followed through end of par. (4). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 97-409, § 3, redesignated former par. (5) as (6) and substituted “through (5) of this subsection during the period consisting of the incumbency of the President such individual serves plus one year after such incumbency, but in no event longer than two years after the individual leaves office;” for “through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President; and”.

Former par. (6) redesignated (8).

Subsec. (b)(7). Pub. L. 97-409, § 3, added par. (7).

Subsec. (b)(8). Pub. L. 97-409, § 3, redesignated former par. (6) as (8) and substituted “the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director, during the incumbency of the President” for “any officer of the principal national campaign committee seeking the election or reelection of the President”.

Subsec. (c). Pub. L. 97-409, § 4(a)(2), added subsec. (c).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1994 AMENDMENT; TRANSITION PROVISIONS

Section 7 of Pub. L. 103-270 provided that:

“(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act [amending this section and sections 592 to 596 and 599 of this title] shall apply with respect to independent counsels appointed before, on, or after the date of enactment of this Act [June 30, 1994].

“(b) ASSIGNMENT OF EMPLOYEE TO CERTIFY EXPENDITURES.—An independent counsel appointed prior to the date of enactment of this Act shall assign to an employee the duty of certifying expenditures, as required by section 594(l) of title 28, United States Code, as added by section 3(a), by the date that is 30 days after the date of enactment of this Act.

“(c) OFFICE SPACE.—The Administrator of General Services, in applying section 594(l)(3) of title 28, United States Code, as added by section 3(a), to determine whether the office of an independent counsel appointed prior to the date of enactment of this Act should be moved to a Federal building, shall take into account the moving, legal, and other expenses that might arise if the office were moved.

“(d) TRAVEL AND SUBSISTENCE EXPENSES.—For purposes of the restrictions on reimbursement of travel and subsistence expenses of an independent counsel and employees of an office of independent counsel contained in paragraph (3) of section 594(b) of title 28, United States Code, as amended by section 3(b), as ap-

plied to the office of an independent counsel appointed before the date of enactment of this Act, the 1-year service period shall begin on the date of enactment of this Act.

“(e) **RATES OF COMPENSATION.**—The limitation on rates of compensation of employees of an office of independent counsel contained in the last sentence of section 594(c) of title 28, United States Code, as amended by section 3(c), shall not be applied to cause a reduction in the rate of compensation of an employee appointed before the date of enactment of this Act.

“(f) **PERIODIC REAPPOINTMENT.**—The determinations by the division of the court contained in the last sentence of section 596(b)(2) of title 28, United States Code, as amended by section 3(h), shall, for the office of an independent counsel appointed before the date of enactment of this Act, be required no later than 1 year after the date of enactment of this Act and at the end of each succeeding 1-year period.

“(g) **REPORTING REQUIREMENTS.**—No amendment made by this Act that establishes or modifies a requirement that any person submit a report to any other person with respect to an activity occurring during any time period shall be construed to require that a report submitted prior to the date of enactment of this Act, with respect to that time period be supplemented to include information with respect to such activity.

“(h) **REGULATORY INDEPENDENT COUNSEL.**—Notwithstanding the restriction in section 593(b)(2) of title 28, United States Code, the division of the court described in section 49 of that title may appoint as an independent counsel any individual who, on the date of enactment of this Act, is serving as a regulatory independent counsel under parts 600 and 603 of title 28, Code of Federal Regulations. If such an individual is so appointed, such an independent counsel shall comply with chapter 40 of title 28, United States Code, as amended by this Act, in the same manner and to the same extent as an independent counsel appointed before the date of enactment of this Act is required to comply with that chapter, except that subsection (f) of this section shall not apply to such an independent counsel.

“(i) **WHITE HOUSE PERSONNEL REPORT.**—Section 6 [enacting provisions set out as a note under section 113 of Title 3, The President] shall take effect on January 1, 1995.”

EFFECTIVE DATE OF 1987 AMENDMENT

Section 6 of Pub. L. 100-191 provided that:

“(a) **IN GENERAL.**—Subject to subsection (b), the amendments made by this Act [enacting section 599 of this title, amending this section, sections 49 and 592 to 598 of this title, sections 203 and 205 of Pub. L. 95-521 set out in the Appendix to Title 5, Government Organization and Employees, and section 202 of Title 18, Crimes and Criminal Procedure, enacting provisions set out as a note under section 1 of this title, and amending provisions set out below] take effect on the date of the enactment of this Act [Dec. 15, 1987].

“(b) **PENDING PROCEEDINGS.**—With respect to any proceeding under chapter 39 of title 28, United States Code (before the redesignation of such chapter as chapter 40 by section 144(g) of Public Law 99-554), or under chapter 40 of such title (after such redesignation), which is pending on the date of the enactment of this Act [Dec. 15, 1987], the following shall apply:

“(1) Except as provided in paragraphs (2) and (3), the provisions of chapter 40 of such title as in effect on the day before such date of enactment shall, in lieu of the amendments made by this Act, continue to apply on or after such date to such proceeding until such proceeding is terminated in accordance with such chapter.

“(2) The following provisions shall apply to such proceeding on or after such date of enactment:

“(A) Section 593(f) of title 28, United States Code, as amended by section 2 of this Act, relating to the award of attorneys’ fees.

“(B) Section 594(d)(2) of such title, as added by section 2 of this Act, to the extent that such sec-

tion 594(d)(2) relates to reports by the Attorney General on expenditures by independent counsel, except that the first such report shall be made only with respect to expenditures on or after the date of the enactment of this Act.

“(C) Section 594(h)(1)(A) of such title, as added by section 2 of this Act, relating to reports by independent counsel, except that the 6-month periods described in such section 594(h)(1)(A) shall be calculated from the date of the enactment of this Act.

“(D) Section 594(i) of such title, as added by section 2 of this Act, relating to the independence of the office of independent counsel for certain purposes.

“(E) Section 594(k) of such title, as added by section 2 of this Act, relating to custody of records of independent counsel.

“(F) Section 596(a)(3) of such title, as amended by section 2 of this Act, relating to judicial review of the removal of an independent counsel from office.

“(G) Section 596(c) of such title, as added by section 2 of this Act, relating to audits of expenditures of independent counsel.

“(H) The amendments made by section 3 of this Act [amending sections 203 and 205 of Pub. L. 95-521, set out in Appendix to Title 5, and section 202 of Title 18], relating to the status of independent counsel and their appointees as special government employees and to their financial disclosure requirements.

“(3) Section 594(j) of title 28, United States Code, as added by section 2 of this Act, relating to certain standards of conduct shall, 90 days after the date of the enactment of this Act, apply to a pending proceeding described in this subsection.”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 235(a)(1)(B)(ii)(IV) of Pub. L. 98-473 provided that the amendment made by Pub. L. 98-473 is effective Oct. 12, 1984.

EFFECTIVE DATE

Section 604 of Pub. L. 95-521 provided that: “Except as provided in this section, the amendments made by this title [enacting this chapter and sections 49, 528, and 529 of this title] shall take effect on the date of the enactment of this Act [Oct. 26, 1978]. The provisions of chapter 39 of title 28 of the United States Code, as added by section 601 of this Act, shall not apply to specific information received by the Attorney General pursuant to section 591 of such title 28, if the Attorney General determines that—

“(1) such specific information is directly related to a prosecution pending at the time such specific information is received by the Attorney General;

“(2) such specific information is related to a matter which has been presented to a grand jury and is received by the Attorney General within one hundred and eighty days of the date of the enactment of this Act; or

“(3) such specific information is related to an investigation that is pending at the time such specific information is received by the Attorney General, and such specific information is received by the Attorney General within ninety days of the date of the enactment of this Act.”

PERMANENT APPROPRIATION FOR EXPENSES OF INDEPENDENT COUNSELS

Pub. L. 100-202, §101(a) [title II], Dec. 22, 1987, 101 Stat. 1329, 1329-9, as amended by Pub. L. 111-68, div. A, title I, §1501(d), Oct. 1, 2009, 123 Stat. 2041, provided: “That a permanent indefinite appropriation is established within the Department of Justice to pay all necessary expenses of investigations and prosecutions by independent counsel appointed pursuant to the provisions of 28 U.S.C. 591 et seq. or other law”.

CONTINGENCY FUND FOR INDEPENDENT COUNSELS

Section 601(c) of Pub. L. 95-521, as amended by Pub. L. 97-409, §2(c)(2), Jan. 3, 1983, 96 Stat. 2039; Pub. L.

100-191, §5(b), Dec. 15, 1987, 101 Stat. 1307, provided that: "There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any independent counsels appointed under chapter 40 (relating to independent counsels) of title 28 of the United States Code in the carrying out of functions under such chapter."

§ 592. Preliminary investigation and application for appointment of an independent counsel

(a) CONDUCT OF PRELIMINARY INVESTIGATION.—

(1) IN GENERAL.—A preliminary investigation conducted under this chapter shall be of such matters as the Attorney General considers appropriate in order to make a determination, under subsection (b) or (c), on whether further investigation is warranted, with respect to each potential violation, or allegation of a violation, of criminal law. The Attorney General shall make such determination not later than 90 days after the preliminary investigation is commenced, except that, in the case of a preliminary investigation commenced after a congressional request under subsection (g), the Attorney General shall make such determination not later than 90 days after the request is received. The Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of such preliminary investigation and the date of such commencement.

(2) LIMITED AUTHORITY OF ATTORNEY GENERAL.—(A) In conducting preliminary investigations under this chapter, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas.

(B)(i) The Attorney General shall not base a determination under this chapter that information with respect to a violation of criminal law by a person is not specific and from a credible source upon a determination that such person lacked the state of mind required for the violation of criminal law.

(ii) The Attorney General shall not base a determination under this chapter that there are no reasonable grounds to believe that further investigation is warranted, upon a determination that such person lacked the state of mind required for the violation of criminal law involved, unless there is clear and convincing evidence that the person lacked such state of mind.

(3) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Attorney General may apply to the division of the court for a single extension, for a period of not more than 60 days, of the 90-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant such extension.

(b) DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.—

(1) NOTIFICATION OF DIVISION OF THE COURT.—If the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court, and the division of the court shall have no

power to appoint an independent counsel with respect to the matters involved.

(2) FORM OF NOTIFICATION.—Such notification shall contain a summary of the information received and a summary of the results of the preliminary investigation.

(c) DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.—

(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

(A) the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are reasonable grounds to believe that further investigation is warranted; or

(B) the 90-day period referred to in subsection (a)(1), and any extension granted under subsection (a)(3), have elapsed and the Attorney General has not filed a notification with the division of the court under subsection (b)(1).

In determining under this chapter whether reasonable grounds exist to warrant further investigation, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the conduct of criminal investigations.

(2) RECEIPT OF ADDITIONAL INFORMATION.—If, after submitting a notification under subsection (b)(1), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which such notification related, the Attorney General shall—

(A) conduct such additional preliminary investigation as the Attorney General considers appropriate for a period of not more than 90 days after the date on which such additional information is received; and

(B) otherwise comply with the provisions of this section with respect to such additional preliminary investigation to the same extent as any other preliminary investigation under this section.

(d) CONTENTS OF APPLICATION.—Any application for the appointment of an independent counsel under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction so that the independent counsel has adequate authority to fully investigate and prosecute the subject matter and all matters related to that subject matter.

(e) DISCLOSURE OF INFORMATION.—Except as otherwise provided in this chapter or as is deemed necessary for law enforcement purposes, no officer or employee of the Department of Justice or an office of independent counsel may, without leave of the division of the court, disclose to any individual outside the Department of Justice or such office any notification, application, or any other document, materials, or memorandum supplied to the division of the court under this chapter. Nothing in this chapter shall be construed as authorizing the withholding of information from the Congress.

(f) **LIMITATION ON JUDICIAL REVIEW.**—The Attorney General's determination under this chapter to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

(g) **CONGRESSIONAL REQUEST.**—

(1) **BY JUDICIARY COMMITTEE OR MEMBERS THEREOF.**—The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such committee, may request in writing that the Attorney General apply for the appointment of an independent counsel.

(2) **REPORT BY ATTORNEY GENERAL PURSUANT TO REQUEST.**—Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the Attorney General has begun or will begin a preliminary investigation under this chapter of the matters with respect to which the request is made, in accordance with subsection (a) or (c) of section 591, as the case may be. The report shall set forth the reasons for the Attorney General's decision regarding such preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report shall include the date on which the preliminary investigation began or will begin.

(3) **SUBMISSION OF INFORMATION IN RESPONSE TO CONGRESSIONAL REQUEST.**—At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to this section with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), such notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel is made to the division of the court under this section pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why such application was not made, addressing each matter with respect to which the congressional request was made.

(4) **DISCLOSURE OF INFORMATION.**—Any report, notification, application, or other document, material, or memorandum supplied to a committee under this subsection shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such report, notification, application, document, material, or memorandum as will not in the committee's judgment prejudice the rights of any individual.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1868; amended Pub. L. 97-409, §§2(a)(1), 4(b)-(e), Jan. 3, 1983, 96 Stat. 2039-2041; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1295; Pub. L. 103-270, §3(l), June 30, 1994, 108 Stat. 736.)

AMENDMENTS

1994—Subsec. (e). Pub. L. 103-270 inserted “or as is deemed necessary for law enforcement purposes” after “Except as otherwise provided in this chapter”.

1987—Pub. L. 100-191 amended section generally, substituting provisions relating to preliminary investigation and application for appointment of an independent counsel for provisions relating to application for appointment of an independent counsel.

1983—Subsec. (a). Pub. L. 97-409, §4(b), designated existing provisions as par. (1), substituted, “Upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate that any person covered by the Act has engaged in conduct described in subsection (a) or (c) of section 591 of this title, the Attorney General” for “The Attorney General, upon receiving specific information that any of the persons described in section 591(b) of this title has engaged in conduct described in section 591(a) of this title,” inserted “In determining whether grounds to investigate exist, the Attorney General shall consider— (A) the degree of specificity of the information received, and (B) the credibility of the source of the information.”, and added par. (2).

Subsec. (b)(1). Pub. L. 97-409, §§2(a)(1)(A), 4(c), substituted “that there are no reasonable grounds to believe that further investigation or prosecution is warranted” for “that the matter is so unsubstantiated that no further investigation or prosecution is warranted” and substituted “independent counsel” for “special prosecutor”.

Subsec. (c)(1). Pub. L. 97-409, §§2(a)(1)(A), 4(d), substituted “finds reasonable grounds to believe that further investigation or prosecution is warranted” for “finds the matter warrants further investigation or prosecution” after “preliminary investigation”, “that there are no reasonable grounds to believe that further investigation or prosecution is warranted” for “that the matter is so unsubstantiated as not to warrant further investigation or prosecution”, and “independent counsel” for “special prosecutor”, and inserted provision that in determining whether reasonable grounds exist to warrant further investigation or prosecution, the Attorney General shall comply with written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

Subsec. (c)(2). Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” in provisions following subpar. (B).

Subsec. (c)(2)(A). Pub. L. 97-409, §4(e)(1), substituted “information sufficient to constitute grounds to investigate” for “specific information” after “receives additional”.

Subsec. (c)(2)(B). Pub. L. 97-409, §4(e)(2), substituted “reasonable grounds exist to warrant” for “such information warrants” after “appropriate, that”.

Subsecs. (d)(1), (e), (f). Pub. L. 97-409, §2(a)(1), substituted “independent counsel” for “special prosecutor” and “independent counsel’s” for “special prosecutor’s” wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, see section 7(a) of Pub. L. 103-270, set out as an Effective Date of 1994 Amendment; Transition Provisions note under section 591 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

§ 593. Duties of the division of the court

(a) **REFERENCE TO DIVISION OF THE COURT.**—The division of the court to which this chapter refers

is the division established under section 49 of this title.

(b) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.—

(1) AUTHORITY.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction.

(2) QUALIFICATIONS OF INDEPENDENT COUNSEL.—The division of the court shall appoint as independent counsel an individual who has appropriate experience and who will conduct the investigation and any prosecution in a prompt, responsible, and cost-effective manner. The division of the court shall seek to appoint as independent counsel an individual who will serve to the extent necessary to complete the investigation and any prosecution without undue delay. The division of the court may not appoint as an independent counsel any person who holds any office of profit or trust under the United States.

(3) SCOPE OF PROSECUTORIAL JURISDICTION.—In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel has adequate authority to fully investigate and prosecute the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel, and all matters related to that subject matter. Such jurisdiction shall also include the authority to investigate and prosecute Federal crimes, other than those classified as Class B or C misdemeanors or infractions, that may arise out of the investigation or prosecution of the matter with respect to which the Attorney General's request was made, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

(4) DISCLOSURE OF IDENTITY AND PROSECUTORIAL JURISDICTION.—An independent counsel's identity and prosecutorial jurisdiction (including any expansion under subsection (c)) may not be made public except upon the request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of such independent counsel shall be made public when any indictment is returned, or any criminal information is filed, pursuant to the independent counsel's investigation.

(c) EXPANSION OF JURISDICTION.—

(1) IN GENERAL.—The division of the court, upon the request of the Attorney General, may expand the prosecutorial jurisdiction of an independent counsel, and such expansion may be in lieu of the appointment of another independent counsel.

(2) PROCEDURE FOR REQUEST BY INDEPENDENT COUNSEL.—(A) If the independent counsel discovers or receives information about possible violations of criminal law by persons as provided in section 591, which are not covered by the prosecutorial jurisdiction of the independent counsel, the independent counsel may submit such information to the Attorney General.

The Attorney General shall then conduct a preliminary investigation of the information in accordance with the provisions of section 592, except that such preliminary investigation shall not exceed 30 days from the date such information is received. In making the determinations required by section 592, the Attorney General shall give great weight to any recommendations of the independent counsel.

(B) If the Attorney General determines, after according great weight to the recommendations of the independent counsel, that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court and the division of the court shall have no power to expand the jurisdiction of the independent counsel or to appoint another independent counsel with respect to the matters involved.

(C) If—

(i) the Attorney General determines that there are reasonable grounds to believe that further investigation is warranted; or

(ii) the 30-day period referred to in subparagraph (A) elapses without a notification to the division of the court that no further investigation is warranted,

the division of the court shall expand the jurisdiction of the appropriate independent counsel to include the matters involved or shall appoint another independent counsel to investigate such matters.

(d) RETURN FOR FURTHER EXPLANATION.—Upon receipt of a notification under section 592 or subsection (c)(2)(B) of this section from the Attorney General that there are no reasonable grounds to believe that further investigation is warranted with respect to information received under this chapter, the division of the court shall have no authority to overrule this determination but may return the matter to the Attorney General for further explanation of the reasons for such determination.

(e) VACANCIES.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death, or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of such removal is completed.

(f) ATTORNEYS' FEES.—

(1) AWARD OF FEES.—Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against such individual pursuant to that investigation, award reimbursement for those reasonable attorneys' fees incurred by that individual during that investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the the¹ independent counsel who conducted

¹ So in original.

the investigation and Attorney² General of any request for attorneys' fees under this subsection.

(2) **EVALUATION OF FEES.**—The division of the court shall direct such independent counsel and the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, addressing—

- (A) the sufficiency of the documentation;
- (B) the need or justification for the underlying item;
- (C) whether the underlying item would have been incurred but for the requirements of this chapter; and
- (D) the reasonableness of the amount of money requested.

(g) **DISCLOSURE OF INFORMATION.**—The division of the court may, subject to section 594(h)(2), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

(h) **AMICUS CURIAE BRIEFS.**—When presented with significant legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curiae briefs.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1869; amended Pub. L. 97-409, §§2(a)(1), 5, Jan. 3, 1983, 96 Stat. 2039, 2041; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1297; Pub. L. 103-270, §3(n), June 30, 1994, 108 Stat. 736.)

AMENDMENTS

1994—Subsec. (f)(1). Pub. L. 103-270, §3(n)(1), inserted “the independent counsel who conducted the investigation and” before “Attorney General” in last sentence.

Subsec. (f)(2). Pub. L. 103-270, §3(n)(2), in introductory provisions substituted “shall direct such independent counsel and” for “may direct” and “subsection, addressing—” for “subsection, analyzing for each expense—”, added subpars. (A) to (D) and struck out former subpars. (A) to (C) which read as follows:

- “(A) the sufficiency of the documentation;
- “(B) the need or justification for the underlying item; and
- “(C) the reasonableness of the amount of money requested.”

1987—Pub. L. 100-191 amended section generally, substituting subsecs. (a) to (h) for former subsecs. (a) to (g) which related to similar subject matter.

1983—Subsec. (b). Pub. L. 97-409, §2(a)(1), substituted “independent counsel” for “special prosecutor” and “independent counsel’s” for “special prosecutor’s” wherever appearing.

Subsecs. (c) to (e). Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” wherever appearing.

Subsecs. (f), (g). Pub. L. 97-409, §5, added subsecs. (f) and (g).

EFFECTIVE DATE OF 1994 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 103-270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, and, notwithstanding restriction in subsec. (b)(2) of this section, the division of the court described in section 49 of this title is authorized to appoint as an independent counsel any individual who, on June 30, 1994, is serving as a regulatory independent counsel under parts 600 and 603 of title 28, Code of Federal Regulations, see section 7(a), (h) of Pub. L. 103-270, set out as a note under section 591 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, but with subsec. (f) applicable to previously initiated proceedings pending on Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

§ 594. Authority and duties of an independent counsel

(a) **AUTHORITIES.**—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in such independent counsel’s prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General’s personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

(1) conducting proceedings before grand juries and other investigations;

(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such independent counsel considers necessary;

(3) appealing any decision of a court in any case or proceeding in which such independent counsel participates in an official capacity;

(4) reviewing all documentary evidence available from any source;

(5) determining whether to contest the assertion of any testimonial privilege;

(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

² So in original. Probably should be preceded by “the”.

(b) COMPENSATION.—

(1) IN GENERAL.—An independent counsel appointed under this chapter shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter I of chapter 57 of title 5, United States Code, including travel, per diem, and subsistence expenses in accordance with section 5703 of title 5.

(3) TRAVEL TO PRIMARY OFFICE.—

(A) IN GENERAL.—After 1 year of service under this chapter, an independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel, per diem, or subsistence expenses under subchapter I of chapter 57 of title 5, United States Code, for the purpose of commuting to or from the city in which the primary office of the independent counsel or person is located. The 1-year period may be extended for successive 6-month periods if the independent counsel and the division of the court certify that the payment is in the public interest to carry out the purposes of this chapter.

(B) RELEVANT FACTORS.—In making any certification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), the independent counsel and the division of the court shall consider, among other relevant factors—

(i) the cost to the Government of reimbursing such travel and subsistence expenses;

(ii) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;

(iii) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that such travel and subsistence expenses would not be incurred; and

(iv) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.

(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, such independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level ES-4 of the Senior Executive Serv-

ice Schedule under section 5382 of title 5, as adjusted for the District of Columbia under section 5304 of that title regardless of the locality in which an employee is employed.

(d) ASSISTANCE OF DEPARTMENT OF JUSTICE.—

(1) IN CARRYING OUT FUNCTIONS.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties. At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.

(2) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT COUNSEL.—The Department of Justice shall pay all costs relating to the establishment and operation of any office of independent counsel. The Attorney General shall submit to the Congress, not later than 30 days after the end of each fiscal year, a report on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel. Each such report shall include a statement of all payments made for activities of independent counsel but may not reveal the identity or prosecutorial jurisdiction of any independent counsel which has not been disclosed under section 593(b)(4).

(e) REFERRAL OF OTHER MATTERS TO AN INDEPENDENT COUNSEL.—An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the Attorney General or the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept such referral if the matter relates to the independent counsel's prosecutorial jurisdiction. If the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

(f) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—An independent counsel shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws. To determine these policies and policies under subsection (1)(B), the independent counsel shall, except to the extent that doing so would be inconsistent with the purposes of this chapter, consult with the Department of Justice.

(2) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified material.

(g) **DISMISSAL OF MATTERS.**—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution, if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

(h) **REPORTS BY INDEPENDENT COUNSEL.**—

(1) **REQUIRED REPORTS.**—An independent counsel shall—

(A) file with the division of the court, with respect to the 6-month period beginning on the date of his or her appointment, and with respect to each 6-month period thereafter until the office of that independent counsel terminates, a report which identifies and explains major expenses, and summarizes all other expenses, incurred by that office during the 6-month period with respect to which the report is filed, and estimates future expenses of that office; and

(B) before the termination of the independent counsel's office under section 596(b), file a final report with the division of the court, setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought.

(2) **DISCLOSURE OF INFORMATION IN REPORTS.**—The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report filed under paragraph (1)(B) available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report.

(3) **PUBLICATION OF REPORTS.**—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.

(i) **INDEPENDENCE FROM DEPARTMENT OF JUSTICE.**—Each independent counsel appointed under this chapter, and the persons appointed by that independent counsel under subsection (c), are separate from and independent of the Department of Justice for purposes of sections 202 through 209 of title 18.

(j) **STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL, PERSONS SERVING IN THE OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR LAW FIRMS.**—

(1) **RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.**—(A) During the period in which an independent counsel is serving under this chapter—

(i) such independent counsel, and

(ii) any person associated with a firm with which such independent counsel is associated,

may not represent in any matter any person involved in any investigation or prosecution under this chapter.

(B) During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, such person may not represent in any matter any person involved in any investigation or prosecution under this chapter.

(2) **POST EMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND APPOINTEES.**—(A) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel.

(B) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 1 year following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.

(3) **ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF INDEPENDENT COUNSEL.**—Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following such termination, represent any person in any matter involving any investigation or prosecution under this chapter.

(4) **DEFINITIONS.**—For purposes of this subsection—

(A) the term “firm” means a law firm whether organized as a partnership or corporation; and

(B) a person is “associated” with a firm if that person is an officer, director, partner, or other member or employee of that firm.

(5) **ENFORCEMENT.**—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection.

(k) **CUSTODY OF RECORDS OF AN INDEPENDENT COUNSEL.**—

(1) **TRANSFER OF RECORDS.**—Upon termination of the office of an independent counsel, that independent counsel shall transfer to the

Archivist of the United States all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to rule 6(e) of the Federal Rules of Criminal Procedure as grand jury materials and which of these records have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel's office, were stored with the division of the court or elsewhere before the enactment of the Independent Counsel Reauthorization Act of 1987, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of such records.

(2) MAINTENANCE, USE, AND DISPOSAL OF RECORDS.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with chapters 21, 29, and 33 of title 44.

(3) ACCESS TO RECORDS.—

(A) IN GENERAL.—Subject to paragraph (4), access to the records transferred to the Archivist under this chapter shall be governed by section 552 of title 5.

(B) ACCESS BY DEPARTMENT OF JUSTICE.—The Archivist shall, upon written application by the Attorney General, disclose any such records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding, except that, in the case of grand jury materials, such records shall be so disclosed only by order of the court of jurisdiction under rule 6(e) of the Federal Rules of Criminal Procedure.

(C) EXCEPTION.—Notwithstanding any restriction on access imposed by law, the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

(4) RECORDS PROVIDED BY CONGRESS.—Records of an investigation conducted by a committee of the House of Representatives or the Senate which are provided to an independent counsel to assist in an investigation or prosecution conducted by that independent counsel—

(A) shall be maintained as a separate body of records within the records of the independent counsel; and

(B) shall, after the records have been transferred to the Archivist under this chapter, be made available, except as provided in paragraph (3)(B) and (C), in accordance with the rules governing release of the records of the House of Congress that provided the records to the independent counsel.

Subparagraph (B) shall not apply to those records which have been surrendered pursuant to grand jury or court proceedings.

(D) Cost Controls and Administrative Support.—

(1) COST CONTROLS.—

(A) IN GENERAL.—An independent counsel shall—

(i) conduct all activities with due regard for expense;

(ii) authorize only reasonable and lawful expenditures; and

(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

(B) LIABILITY FOR INVALID CERTIFICATION.—An employee making a certification under subparagraph (A)(iii) shall be liable for an invalid certification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.

(C) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

(2) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

(3) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1869; amended Pub. L. 97-409, §2(a)(1), 6(a)-(c), Jan. 3, 1983, 96 Stat. 2039, 2041; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1300; Pub. L. 103-270, §3(a)-(f), (m), (o), June 30, 1994, 108 Stat. 732-734, 736; Pub. L. 104-208, div. A, title I, §101(a) [title I, §118], Sept. 30, 1996, 110 Stat. 3009, 3009-23.)

REFERENCES IN TEXT

Section 6103 of the Internal Revenue Code of 1986, referred to in subsec. (a)(8), is classified to section 6103 of Title 26, Internal Revenue Code.

The Federal Rules of Criminal Procedure, referred to in subsec. (k)(1), (3)(B), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The enactment of the Independent Counsel Reauthorization Act of 1987, referred to in subsec. (k)(1), is the enactment of Pub. L. 100-191, which was approved Dec. 15, 1987.

AMENDMENTS

1996—Subsec. (b)(3)(A). Pub. L. 104-208, §101(a) [title I, §118(a), (b)], in second sentence substituted “for succes-

sive 6-month periods” for “by 6-months” and “independent counsel and the division of the court certify” for “employee assigned duties under subsection (l)(1)(A)(iii) certifies”.

Subsec. (b)(3)(B). Pub. L. 104-208, §101(a) [title I, §118(c)], which directed the amendment of second sentence of subsec. (b)(3)(A) by striking “such employee” and inserting “the independent counsel” and “the division of the court”, was executed to introductory provisions of subsec. (b)(3)(B) by substituting “the independent counsel and the division of the court” for “such employee” to reflect the probable intent of Congress.

1994—Subsec. (b). Pub. L. 103-270, §3(b), designated existing text as par. (1) and inserted heading, and added pars. (2) and (3).

Subsec. (c). Pub. L. 103-270, §3(c), substituted last sentence for former last sentence which read as follows: “No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5.”

Subsec. (d)(1). Pub. L. 103-270, §3(m), inserted at end “At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.”

Subsec. (f). Pub. L. 103-270, §3(e), designated existing provisions as par. (1) and inserted heading, substituted “shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply” for “shall, except where not possible, comply”, inserted at end “To determine these policies and policies under subsection (l)(1)(B), the independent counsel shall, except to the extent that doing so would be inconsistent with the purposes of this chapter, consult with the Department of Justice.”, and added par. (2).

Subsec. (h)(1)(B). Pub. L. 103-270, §3(o), struck out before period at end “, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel”.

Subsec. (h)(3). Pub. L. 103-270, §3(f), added par. (3).

Subsec. (j)(5). Pub. L. 103-270, §3(d), added par. (5).

Subsec. (l). Pub. L. 103-270, §3(a), added subsec. (l).

1987—Pub. L. 100-191 amended section generally, substituting subssecs. (a) to (k) for former subssecs. (a) to (g) which related to similar subject matter.

1986—Subsec. (a)(8). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1983—Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” in section catchline.

Subsec. (a). Pub. L. 97-409, §2(a)(1), substituted “independent counsel” for “special prosecutor” wherever appearing and “independent counsel’s” for “special prosecutor’s”.

Subsec. (a)(10). Pub. L. 97-409, §6(a), added par. (10).

Subsecs. (b), (c). Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” wherever appearing.

Subsecs. (d), (e). Pub. L. 97-409, §2(a)(1), substituted “independent counsel” for “special prosecutor” and “independent counsel’s” for “special prosecutor’s” wherever appearing.

Subsec. (f). Pub. L. 97-409, §§2(a)(1)(A), 6(b), substituted “independent counsel” for “special prosecutor”, “except where not possible” for “to the extent that such special prosecutor deems appropriate”, and “written or other established policies” for “written policies”.

Subsec. (g). Pub. L. 97-409, §6(c), added subsec. (g).

EFFECTIVE DATE OF 1994 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 103-270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, with transition provisions relating to assignment of employee to certify expenditures and relating to office space, travel and subsistence expenses, rates of compensation, and reporting requirements established or modified by Pub. L. 103-270, see

section 7(a)–(e), (g) of Pub. L. 103-270, set out as a note under section 591 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, but with the following provisions applicable to previously initiated proceedings pending on Dec. 15, 1987: subsec. (d)(2) (relating to reports by Attorney General on expenditures by independent counsel, except that the first such report shall be made only with respect to expenditures on or after Dec. 15, 1987), subsec. (h)(1)(A) except that the 6-month periods described in subsec. (h)(1)(A) of this section shall be calculated from Dec. 15, 1987, subsec. (i), subsec. (k) of this section, and 90 days after Dec. 15, 1987, subsec. (j), see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

§ 595. Congressional oversight

(a) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.—

(1) CONGRESSIONAL OVERSIGHT.—The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any independent counsel appointed under this chapter, and such independent counsel shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(2) REPORTS TO CONGRESS.—An independent counsel appointed under this chapter shall submit to the Congress annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made.

(b) OVERSIGHT OF CONDUCT OF ATTORNEY GENERAL.—Within 15 days after receiving an inquiry about a particular case under this chapter, which is a matter of public knowledge, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall provide the following information to that committee with respect to that case:

(1) When the information about the case was received.

(2) Whether a preliminary investigation is being conducted, and if so, the date it began.

(3) Whether an application for the appointment of an independent counsel or a notification that further investigation is not warranted has been filed with the division of the court, and if so, the date of such filing.

(c) INFORMATION RELATING TO IMPEACHMENT.—An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel’s responsibilities under this chapter, that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1871; amended Pub. L. 97-409,

§2(a)(1), Jan. 3, 1983, 96 Stat. 2139; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1304; Pub. L. 103-270, §3(g), June 30, 1994, 108 Stat. 734.)

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103-270 substituted “annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made” for “such statements or reports on the activities of such independent counsel as the independent counsel considers appropriate”.

1987—Pub. L. 100-191 amended section generally, substituting subssecs. (a) to (c) relating to congressional oversight for former subssecs. (a) to (e) relating to reporting and congressional oversight.

1983—Pub. L. 97-409, §2(a)(1), substituted “independent counsel” for “special prosecutor” and “independent counsel’s” for “special prosecutor’s” wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 103-270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, with transition provision relating to reporting requirements established or modified by Pub. L. 103-270, see section 7(a), (g) of Pub. L. 103-270, set out as a note under section 591 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

§ 596. Removal of an independent counsel; termination of office

(a) REMOVAL; REPORT ON REMOVAL.—

(1) GROUNDS FOR REMOVAL.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability),¹ or any other condition that substantially impairs the performance of such independent counsel’s duties.

(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of such report in accordance with section 594(h)(2).

¹ So in original.

(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. The independent counsel may be reinstated or granted other appropriate relief by order of the court.

(b) TERMINATION OF OFFICE.—

(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions; and

(B) the independent counsel files a final report in compliance with section 594(h)(1)(B).

(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of such termination, the independent counsel shall file the final report required by section 594(h)(1)(B). If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.

(c) AUDITS.—(1) On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

(2) The Comptroller General shall—

(A) conduct a financial review of a mid-year statement and a financial audit of a year-end statement and statement on termination; and

(B) report the results to the Committee on the Judiciary, Committee on Governmental

Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Operations, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each such statement.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1872; amended Pub. L. 97-409, §§2(a)(1), 6(d), Jan. 3, 1983, 96 Stat. 2039, 2042; Pub. L. 98-620, title IV, §402(29)(A), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1304; Pub. L. 103-270, §§3(h), (i), 5, June 30, 1994, 108 Stat. 735, 737.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-270, §5, substituted “physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability),” for “physical disability, mental incapacity”.

Subsec. (b)(2). Pub. L. 103-270, §3(h), inserted at end “If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.”

Subsec. (c). Pub. L. 103-270, §3(i), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “AUDITS.—After the termination of the office of an independent counsel, the Comptroller General shall conduct an audit of the expenditures of that office, and shall submit to the appropriate committees of the Congress a report on the audit.”

1987—Pub. L. 100-191 amended section generally, substituting subssecs. (a) to (c) for former subssecs. (a) and (b) which related to similar subject matter.

1984—Subsec. (a)(3). Pub. L. 98-620 struck out provision requiring the division of the court to cause such an action to be in every way expedited.

1983—Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” in section catchline.

Subsec. (a)(1). Pub. L. 97-409, §§2(a)(1), 6(d), substituted “independent counsel” for “special prosecutor”, “good cause” for “extraordinary impropriety”, and “independent counsel’s” for “special prosecutor’s”.

Subsecs. (a)(2), (3), (b). Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” wherever appearing.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1994 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 103-270 applicable with respect to independent counsels appointed before, on, or

after June 30, 1994, with transition provisions directing that determinations by the division of the court contained in last sentence of subsec. (b)(2) of this section shall, for the office of an independent counsel appointed before June 30, 1994, be required no later than 1 year after June 30, 1994, and at end of each succeeding 1-year period, and transition provisions relating to reporting requirements established or modified by Pub. L. 103-270, see section 7(a), (f), (g) of Pub. L. 103-270, set out as a note under section 591 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, but with subssecs. (a)(3) and (c) applicable to previously initiated proceedings pending on Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of this title.

§ 597. Relationship with Department of Justice

(a) **SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.**—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d)(1), and except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

(b) **PRESENTATION AS AMICUS CURIAE PERMITTED.**—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1872; amended Pub. L. 97-409, §2(a)(1)(A), Jan. 3, 1983, 96 Stat. 2039; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1306.)

AMENDMENTS

1987—Pub. L. 100-191 amended section generally, substituting provisions relating to relationship with Department of Justice for substantially similar provisions.

1983—Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

§ 598. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other per-

sons not similarly situated or to other circumstances shall not be affected by such invalidation.

(Added Pub. L. 95-521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1873; amended Pub. L. 97-409, § 2(a)(1)(A), 7, Jan. 3, 1983, 96 Stat. 2039, 2042; Pub. L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1306.)

AMENDMENTS

1987—Pub. L. 100-191 amended section generally, substituting provisions relating to severability for provisions relating to termination of chapter. See section 599 of this title.

1983—Pub. L. 97-409, § 2(a)(1)(A), 7, substituted reference to the date of enactment of the Ethics in Government Act Amendments of 1982 for reference to the date of enactment of this chapter and substituted “independent counsel” for “special prosecutor” whenever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

§ 599. Termination of effect of chapter

This chapter shall cease to be effective five years after the date of the enactment of the Independent Counsel Reauthorization Act of 1994, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of such counsel require such continuation until that independent counsel determines such matters have been completed.

(Added Pub. L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1306; amended Pub. L. 103-270, § 2, June 30, 1994, 108 Stat. 732.)

REFERENCES IN TEXT

The date of the enactment of the Independent Counsel Reauthorization Act of 1994, referred to in text, is the date of enactment of Pub. L. 103-270, which was approved June 30, 1994.

AMENDMENTS

1994—Pub. L. 103-270 substituted “1994” for “1987”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, see section 7(a) of Pub. L. 103-270, set out as an Effective Date of 1994 Amendment; Transition Provisions note under section 591 of this title.

EFFECTIVE DATE

Section effective Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

CHAPTER 40A—BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

| | |
|-------|---|
| Sec. | |
| 599A. | Bureau of Alcohol, Tobacco, Firearms, and Explosives |
| 599B. | Personnel management demonstration project ¹ |

§ 599A. Bureau of alcohol, tobacco, firearms, and Explosives¹

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this section referred to as the “Bureau”).

(2) DIRECTOR.—There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this subtitle² referred to as the “Director”). The Director shall be appointed by the President, by and with the advice and consent of the Senate³ and shall perform such functions as the Attorney General shall direct. The Director shall receive compensation at the rate prescribed by law under section 5314 of title V⁴, United States Code, for positions at level III of the Executive Schedule.

(3) COORDINATION.—The Attorney General, acting through the Director and such other officials of the Department of Justice as the Attorney General may designate, shall provide for the coordination of all firearms, explosives, tobacco enforcement, and arson enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among any officer, employee, or agency of the Department of Justice involved in the performance of these and related functions.

(4) PERFORMANCE OF TRANSFERRED FUNCTIONS.—The Attorney General may make such provisions as the Attorney General determines appropriate to authorize the performance by any officer, employee, or agency of the Department of Justice of any function transferred to the Attorney General under this section.

(b) RESPONSIBILITIES.—Subject to the direction of the Attorney General, the Bureau shall be responsible for investigating—

(1) criminal and regulatory violations of the Federal firearms, explosives, arson, alcohol, and tobacco smuggling laws;

(2) the functions transferred by subsection (c) of section 1111 of the Homeland Security Act of 2002 (as enacted on the date of the enactment of such Act); and

(3) any other function related to the investigation of violent crime or domestic terrorism that is delegated to the Bureau by the Attorney General.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—Subject to paragraph (2),² but notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

(3)⁵ BUILDING PROSPECTUS.—Prospectus PDC-98W10, giving the General Services Administration the authority for site acquisition, de-

¹ So in original. Does not conform to section catchline.

¹ So in original. Probably should be “Bureau of Alcohol, Tobacco, Firearms, and Explosives”.

² See References in Text note below.

³ So in original. Probably should be followed by a comma.

⁴ So in original. Probably should be title “5”.

⁵ So in original. There is no par. (2).